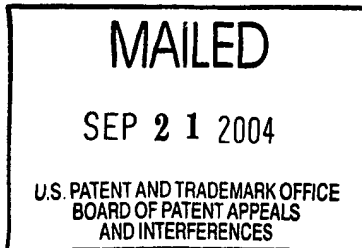


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte ANTHONY F. HERBST
and
WAYNE F. PERG

Application No. 09/197,908

ORDER RETURNING UNDOCKETED APPEAL

This application was received at the Board of Patent Appeals and Interferences on August 2, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith returned to the examiner. The matters requiring attention prior to docketing are identified below.

On August 31, 2001, Declarations for Philip A. Horvath and Nimish Gandhi were filed (Paper No. 11). There is no indication in the record as to whether the examiner has considered these declarations. The above concern was previously noted in the ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER mailed on July 29, 2004 (Paper No. 24).


Accordingly, it is

ORDERED that the application is returned to the
Examiner:

1. for consideration of the Declarations filed on
August 31, 2001 (Paper No. 11);
2. for written notification to appellants regarding
the action taken; and
3. for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: _____


DALE SHAW
Program and Resource Administrator
(703) 308-9797

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RA040806